



STATE OF ARIZONA

JANICE K. BREWER
GOVERNOR

EXECUTIVE OFFICE

April 28, 2011

The Honorable Ken Bennett
Secretary of State
1700 West Washington, 7th Floor
Phoenix, Arizona 85007

RE: Senate Bill 1593 (health insurance; interstate purchase)

Dear Secretary Bennett:

Today I vetoed Senate Bill 1593. I have long been a strong advocate for injecting more choice and competition into our health insurance market, and I applaud the sponsor's efforts toward that end. I share the Legislature's concerns about the impacts of mandates on the affordability of health insurance -- for these reasons I have joined in litigation with many of my fellow Governors to stop the federal government's intrusion into private health insurance. Arizona, not the federal government or legislatures in other states, should determine what coverage requirements are right for Arizonans.

Over the years, the Legislature has carefully weighed the priorities of Arizonans when determining what should be included in a standard health benefits package. The same level of public scrutiny should be applied whenever the Legislature attempts to remove a mandate. Senate Bill 1593 includes a provision that would, under certain conditions, change Arizona's benefit requirements based on legislative decisions in other states. This change was added on the floor and not subject to the typical public input that such major policy decisions should receive.

I am also concerned about risks to our citizens who may be subject to other states' regulatory procedures that could leave them with little recourse in the event of mistreatment. Senate Bill 1593 limits the jurisdiction of the Arizona Department of Insurance over out-of-state companies, potentially putting Arizona policyholders at risk. Arizonans should not have to litigate against an insurer when the State has an existing process by which insurance disputes can be resolved.

I continue to support a vigorous and competitive private health insurance market and look forward to working with the legislature on reforms to that end.

Sincerely,

A handwritten signature in cursive script that reads "Janice K. Brewer". The signature is written in dark ink and is positioned above the printed name and title.

Janice K. Brewer
Governor

cc: The Honorable Russell Pearce
The Honorable Andy Tobin
The Honorable Nancy Barto
Senate Secretary
Chief Clerk of the House of Representatives

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1593

AN ACT

AMENDING SECTIONS 20-221 AND 20-224, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-238; AMENDING SECTIONS 20-441, 20-2102, 20-2531, 20-3101 AND 20-3151, ARIZONA REVISED STATUTES; RELATING TO HEALTH INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-221, Arizona Revised Statutes, is amended to
3 read:

4 20-221. Director as agent for service of process

5 A. Each authorized foreign or alien insurer, INCLUDING FOREIGN
6 INSURERS THAT ISSUE POLICIES IN THIS STATE PURSUANT TO SECTION 20-238, shall
7 appoint the director as its attorney to receive service of legal process
8 issued against it in this state. The appointment shall be irrevocable, shall
9 bind any successor in interest or to the assets or liabilities of the insurer
10 and shall remain in effect as long as there is in force in this state any
11 contract made by the insurer or obligations arising therefrom.

12 B. Service of process against a foreign or alien insurer shall be made
13 only by service of process upon the director. Service of process against a
14 domestic insurer shall be made upon the insurer corporation in the manner
15 provided by laws applying to corporations generally, or upon the insurer's
16 attorney-in-fact if a reciprocal insurer.

17 C. Each foreign or alien insurer at the time of application for a
18 certificate of authority, OR BEFORE A FOREIGN INSURER ISSUES A POLICY IN THIS
19 STATE PURSUANT TO SECTION 20-238, shall file with the director the name and
20 address of a designated person to whom process against it served upon the
21 director is to be forwarded. The insurer may change such designation by a
22 new filing.

23 D. Any authorized domestic insurer who does not have or maintain a
24 statutory agent shall appoint the director as its attorney to receive service
25 of legal process issued against it in this state.

26 Sec. 2. Section 20-224, Arizona Revised Statutes, is amended to read:

27 20-224. Premium tax

28 A. On or before March 1 of each year each authorized domestic insurer,
29 EACH FOREIGN INSURER THAT ISSUES POLICIES IN THIS STATE PURSUANT TO SECTION
30 20-238, each other insurer and each formerly authorized insurer referred to
31 in section 20-206, subsection B shall file with the director a report in a
32 form prescribed by the director showing total direct premium income including
33 policy membership and other fees and all other considerations for insurance
34 from all classes of business whether designated as a premium or otherwise
35 received by it during the preceding calendar year on account of policies and
36 contracts covering property, subjects or risks located, resident or to be
37 performed in this state, after deducting from such total direct premium
38 income applicable cancellations, returned premiums, the amount of reduction
39 in or refund of premiums allowed to industrial life policyholders for payment
40 of premiums direct to an office of the insurer and all policy dividends,
41 refunds, savings coupons and other similar returns paid or credited to
42 policyholders within this state and not reapplied as premiums for new,
43 additional or extended insurance. No deduction shall be made of the cash
44 surrender values of policies or contracts. Considerations received on
45 annuity contracts, as well as the unabsorbed portion of any premium deposit,

1 shall not be included in total direct premium income, and neither shall be
2 subject to tax. The report shall separately indicate the total direct fire
3 insurance premium income received from property located in the incorporated
4 cities and towns certified by the state fire marshal pursuant to section
5 9-951, subsection B, as procuring the services of a private fire company.

6 B. Coincident with the filing of such tax report each insurer shall
7 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a
8 tax of 2.0 per cent of such net premiums, except that the tax on fire
9 insurance premiums on property located in an incorporated city or town
10 certified by the state fire marshal pursuant to section 9-951, subsection B,
11 as procuring the services of a private fire company is .66 per cent, the tax
12 on all other fire insurance premiums is 2.2 per cent and the tax on health
13 care service and disability insurance premiums is as prescribed under
14 sections 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to
15 subsection E of this section shall be deducted from the tax payable pursuant
16 to this subsection. Each insurer shall reflect the cost savings attributable
17 to the lower tax in fire insurance premiums charged on property located in an
18 incorporated city or town certified by the state fire marshal pursuant to
19 section 9-951, subsection B, as procuring the services of a private fire
20 company. No insurer shall be liable to the state or to any other person, or
21 shall be subject to regulatory action, relating to the calculation or
22 submittal of fire insurance premium taxes based in good faith upon the state
23 fire marshal's certification.

24 C. Eighty-five per cent of the tax paid under this section by an
25 insurer on account of premiums received for fire insurance shall be
26 separately specified in the report and shall be apportioned in the manner
27 provided by sections 9-951, 9-952 and 9-972, except that all of the tax so
28 allocated to a fund of a municipality or fire district that has no volunteer
29 fire fighters or pension obligations to volunteer fire fighters shall be
30 appropriated to the account of the municipality or fire district in the
31 public safety personnel retirement system and all of the tax so allocated to
32 a fund of a municipality or fire district that has both full-time paid fire
33 fighters and volunteer fire fighters or pension obligations to full-time paid
34 fire fighters or volunteer fire fighters shall be appropriated to the account
35 of the municipality or fire district in the public safety personnel
36 retirement system where it shall be reallocated by actuarial procedures
37 proportionately to the municipality or fire district for the account of the
38 full-time paid fire fighters and to the municipality or fire district for the
39 account of the volunteer fire fighters. A municipality or fire district
40 shall provide to the public safety personnel retirement system all
41 information that the system deems necessary to perform the reallocation
42 prescribed by this section. A full accounting of such reallocation shall be
43 forwarded to the municipality or fire district and their local boards.

44 D. This section shall not apply to title insurance, and such insurers
45 shall be taxed as provided in section 20-1566.

1 E. Any insurer that paid or is required to pay a tax of two thousand
2 dollars or more on net premiums received during the preceding calendar year,
3 pursuant to subsection B of this section and sections 20-224.01, 20-837,
4 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day of
5 each month from March through August a report for that month, on a form
6 prescribed by the director, accompanied by a payment in an amount equal to
7 fifteen per cent of the amount paid or required to be paid during the
8 preceding calendar year pursuant to subsection B of this section and sections
9 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and
10 payable on or before the fifteenth day of each month and shall be made to the
11 director for deposit, pursuant to sections 35-146 and 35-147.

12 F. Except for the tax paid on fire insurance premiums pursuant to
13 subsections B and C of this section, an insurer may claim a premium tax
14 credit if the insurer qualifies for a credit pursuant to section 20-224.03,
15 20-224.04, 20-224.06 or 20-224.07.

16 G. On receipt of a properly documented claim, a refund shall be
17 provided to an insurer from available funds for the excess amount of any fire
18 insurance premium improperly paid by the insurer. The insurer shall reflect
19 the refund in the fire insurance premiums charged on the property that was
20 charged the excessive amount.

21 Sec. 3. Title 20, chapter 2, article 1, Arizona Revised Statutes, is
22 amended by adding section 20-238, to read:

23 20-238. Foreign insurers; requirements; registration; fee;
24 revocation; notice; rulemaking; definition

25 A. NOTWITHSTANDING ANY OTHER LAW, INSURERS OF THE SAME TYPE AS THOSE
26 SUBJECT TO SECTION 20-826, 20-1057, 20-1342, 20-1402 OR 20-1404 THAT ISSUE
27 POLICIES, CONTRACTS, PLANS, COVERAGES OR EVIDENCES OF COVERAGE AND THAT HOLD
28 A CERTIFICATE OF AUTHORITY IN ANOTHER STATE MAY ISSUE HEALTH OR SICKNESS
29 INSURANCE IN THIS STATE, AND A PERSON MAY PURCHASE A POLICY, CONTRACT, PLAN,
30 COVERAGE OR EVIDENCE OF COVERAGE, IF THE INSURER PROVIDES EVIDENCE TO THE
31 DIRECTOR THAT WHILE PROVIDING HEALTH OR SICKNESS INSURANCE THE INSURER IS
32 SUBJECT TO THE JURISDICTION OF ANOTHER STATE'S INSURANCE DEPARTMENT AND THAT
33 THE INSURER'S CERTIFICATE OF AUTHORITY REQUIRES THE INSURER TO MAINTAIN
34 FINANCIAL RESERVES OF NOT LESS THAN THE AMOUNT REQUIRED IN THIS STATE. ANY
35 POLICY, CONTRACT, PLAN, COVERAGE OR EVIDENCE OF COVERAGE THAT IS ISSUED FOR
36 HEALTH OR SICKNESS COVERAGE PURSUANT TO THIS SUBSECTION MUST MEET THE BENEFIT
37 REQUIREMENTS OF OTHER POLICIES, CONTRACTS, PLANS, COVERAGES OR EVIDENCES OF
38 COVERAGE ISSUED IN THE STATE WHERE THE FOREIGN INSURER HOLDS A CERTIFICATE OF
39 AUTHORITY. ANY POLICY, CONTRACT, PLAN, COVERAGE OR EVIDENCE OF COVERAGE THAT
40 IS ISSUED PURSUANT TO THIS SUBSECTION IS SUBJECT ONLY TO THE BENEFIT
41 REQUIREMENTS OF THAT STATE.

42 B. BEFORE A FOREIGN INSURER ISSUES A POLICY, CONTRACT, PLAN, COVERAGE
43 OR EVIDENCE OF COVERAGE, THE FOREIGN INSURER SHALL REGISTER WITH THE
44 DEPARTMENT. AN APPLICATION SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND
45 SHALL BE ACCOMPANIED BY A FEE TO BE ESTABLISHED BY THE DIRECTOR. IF THE

1 DIRECTOR REVOKES A FOREIGN INSURER'S REGISTRATION PURSUANT TO SUBSECTION E OF
2 THIS SECTION, THE DIRECTOR SHALL NOT REGISTER THE FOREIGN INSURER UNDER THIS
3 SUBSECTION FOR TWO YEARS AFTER THE DATE OF REVOCATION.

4 C. IF A FOREIGN INSURER ISSUES A POLICY, CONTRACT, PLAN, COVERAGE OR
5 EVIDENCE OF COVERAGE IN THIS STATE THAT DOES NOT INCLUDE A MANDATED HEALTH
6 COVERAGE UNDER THIS TITLE, AN INSURER THAT HOLDS A CERTIFICATE OF AUTHORITY
7 FROM THIS STATE AND THAT IS SUBJECT TO SECTION 20-826, 20-1057, 20-1342,
8 20-1402 OR 20-1404 MAY ISSUE A POLICY, CONTRACT, PLAN, COVERAGE OR EVIDENCE
9 OF COVERAGE IN THIS STATE THAT DOES NOT INCLUDE THAT MANDATED HEALTH
10 COVERAGE.

11 D. A FOREIGN INSURER MUST NOTIFY THE DEPARTMENT IF THE INSURER HAS
12 BEEN SUBJECT TO ANY REGULATORY ACTION LEVEL EVENT SIMILAR TO A REGULATORY
13 ACTION LEVEL EVENT AS DEFINED IN SECTION 20-488 IN THE STATE WHERE THE
14 INSURER HOLDS A CERTIFICATE OF AUTHORITY.

15 E. THE DIRECTOR MAY REVOKE AN INSURER'S REGISTRATION PURSUANT TO
16 SUBSECTION B OF THIS SECTION IF ANY OF THE FOLLOWING OCCURS:

17 1. THE STATE THAT ISSUED THE INSURER'S CERTIFICATE OF AUTHORITY
18 CHANGES THAT STATE'S FINANCIAL RESERVE REQUIREMENTS TO LESS THAN THE AMOUNT
19 REQUIRED BY THIS STATE.

20 2. THE DIRECTOR ESTABLISHES THAT THE STATE THAT ISSUED THE INSURER'S
21 CERTIFICATE OF AUTHORITY HAS IDENTIFIED AND REPEATEDLY ENFORCED PENALTIES ON
22 THE INSURER FOR VIOLATIONS RELATED TO CLAIM DENIALS, PROMPT PAYMENT, POOR
23 CUSTOMER SERVICE, DECEPTIVE MARKETING PRACTICES OR FRAUDULENT ACTIVITIES.

24 3. THE INSURER FAILED TO COMPLY WITH CHAPTER 2, ARTICLE 6 OF THIS
25 TITLE.

26 4. THE INSURER FAILS TO COMPLY WITH CHAPTER 11 OF THIS TITLE.

27 5. THE INSURER FAILS TO COMPLY WITH CHAPTER 20 OF THIS TITLE.

28 6. THE INSURER HAS BEEN SUBJECT TO ANY REGULATORY ACTION LEVEL EVENT
29 IN THE STATE WHERE THE INSURER HOLDS A CERTIFICATE OF AUTHORITY.

30 F. EACH WRITTEN APPLICATION FOR A POLICY, CONTRACT, PLAN, COVERAGE OR
31 EVIDENCE OF COVERAGE FOR HEALTH OR SICKNESS COVERAGE ISSUED UNDER THIS
32 SECTION SHALL CONTAIN THE FOLLOWING NOTICE AT THE BEGINNING OF THE DOCUMENT
33 PRINTED IN AT LEAST TWELVE-POINT BOLDFACED TYPE:

34 NOTICE: THIS POLICY IS ISSUED BY (NAME OF INSURER) AND IS
35 GOVERNED BY THE LAWS AND RULES OF THE STATE OF (STATE THAT
36 ISSUED THE INSURER'S CERTIFICATE OF AUTHORITY). THIS POLICY IS
37 NOT SUBJECT TO ALL OF THE INSURANCE LAWS AND RULES OF THE STATE
38 OF ARIZONA, INCLUDING COVERAGE OF SERVICES OR BENEFITS MANDATED
39 BY LAW IN ARIZONA. AS WITH ALL INSURANCE PRODUCTS, BEFORE
40 PURCHASING THIS POLICY, YOU SHOULD CAREFULLY REVIEW THE POLICY
41 AND DETERMINE WHAT HEALTH CARE SERVICES THE POLICY COVERS AND
42 WHAT BENEFITS IT PROVIDES, INCLUDING ANY EXCLUSIONS, LIMITATIONS
43 OR CONDITIONS FOR SUCH SERVICES OR BENEFITS.

1 G. RESIDENTS OF THIS STATE WHO OBTAIN A POLICY FROM A FOREIGN INSURER
2 MAY PARTICIPATE IN THE HEALTH CARE APPEALS PROCESS PRESCRIBED IN CHAPTER 15,
3 ARTICLE 2 OF THIS TITLE.

4 H. EACH INSURER THAT ISSUES ANY POLICY, CONTRACT, PLAN, COVERAGE OR
5 EVIDENCE OF COVERAGE FOR HEALTH OR SICKNESS COVERAGE PURSUANT TO SUBSECTION A
6 OF THIS SECTION SHALL ON OR BEFORE MARCH 1 OF EACH YEAR FILE WITH THE
7 DIRECTOR A REPORT OF ITS FINANCIAL CONDITION, TRANSACTIONS AND AFFAIRS AS OF
8 THE PRECEDING DECEMBER 31 FOR TRANSACTIONS IN THIS STATE.

9 I. THE DIRECTOR MAY ADOPT RULES TO IMPLEMENT THIS SECTION.

10 J. A COURT OF THIS STATE MAY EXERCISE JURISDICTION OVER A FOREIGN
11 INSURER THAT ISSUES A POLICY, CONTRACT, PLAN, COVERAGE OR EVIDENCE OF
12 COVERAGE PURSUANT TO THIS SECTION IN THIS STATE WITH RESPECT TO THE POLICY,
13 CONTRACT, PLAN, COVERAGE OR EVIDENCE OF COVERAGE THAT IS ISSUED BY THE
14 FOREIGN INSURER.

15 K. FOR THE PURPOSES OF THIS SECTION, "FOREIGN INSURER" MEANS AN
16 INSURER THAT IS FORMED UNDER THE LAWS OF ANOTHER STATE OF THE UNITED STATES.

17 Sec. 4. Section 20-441, Arizona Revised Statutes, is amended to read:

18 20-441. Purpose of article; definition

19 A. Among the purposes of this article is the regulation of trade
20 practices in the business of insurance in accordance with the intent of
21 Congress as expressed in the act of Congress of March 9, 1945, 59 Stat. 33,
22 by defining, or providing for the determination of, all such practices in
23 this state that constitute unfair methods of competition or unfair or
24 deceptive acts or practices and by prohibiting the trade practices so defined
25 or determined.

26 B. For the purposes of this article, "insurance company" or "insurer"
27 means any:

- 28 1. Stock, mutual, reciprocal or title insurer.
- 29 2. Fraternal benefit society.
- 30 3. Health care services organization.
- 31 4. Hospital, medical, dental and optometric service corporation.
- 32 5. Prepaid dental plan organization.
- 33 6. Mechanical reimbursement reinsurer.
- 34 7. Prepaid legal plan.
- 35 8. Lloyd's association.
- 36 9. Service company as defined in this title.

37 10. FOREIGN INSURERS THAT ISSUE POLICIES IN THIS STATE PURSUANT TO
38 SECTION 20-238.

39 ~~10-~~ 11. Any Other entity licensed under this title.

40 Sec. 5. Section 20-2102, Arizona Revised Statutes, is amended to read:

41 20-2102. Definitions

42 In this chapter, unless the context otherwise requires:

43 1. "Adverse underwriting decision" means any of the following actions
44 involving insurance coverage which is individually underwritten:

- 45 (a) A declination of insurance coverage.

1 (b) A termination of insurance coverage.

2 (c) Failure of an insurance producer to apply for insurance coverage
3 with a specific insurance institution which the insurance producer represents
4 and which is requested by an applicant.

5 (d) In the case of property or casualty insurance coverage, placement
6 by an insurance institution or insurance producer of a risk with a residual
7 market mechanism, an unauthorized insurer or an insurance institution which
8 specializes in substandard risks, or the charging of a higher rate on the
9 basis of information which differs from that which the applicant or
10 policyholder furnished.

11 (e) In the case of life, health or disability insurance coverage, an
12 offer to insure at higher than standard rates.

13 (f) In the case of property or casualty insurance, assigning an
14 applicant or policyholder to a higher rating tier or failing to apply a
15 premium discount or credit based on any credit related information derived
16 from the applicant's or policyholder's consumer report, insurance score or
17 lack of credit history.

18 Notwithstanding subdivisions (a) through (f) of this paragraph, the
19 termination of an individual policy form on a class or statewide basis, a
20 declination of insurance coverage solely because the coverage is not
21 available on a class or statewide basis or the rescission of a policy is not
22 considered an adverse underwriting decision, but the insurance institution or
23 insurance producer responsible for its occurrence shall provide the applicant
24 or policyholder with the specific reasons for its occurrence.

25 2. "Affiliate" or "affiliated" means a person that directly or
26 indirectly through one or more intermediaries controls, is controlled by or
27 is under common control with another person.

28 3. "Applicant" means any person who seeks to contract for insurance
29 coverage other than a person seeking group insurance that is not individually
30 underwritten.

31 4. "Consumer report" means any written, oral or other communication of
32 information that bears on a natural person's creditworthiness, credit
33 standing, credit capacity, character, general reputation, personal
34 characteristics or mode of living and that is used or expected to be used in
35 connection with an insurance transaction.

36 5. "Consumer reporting agency" means any person who does any of the
37 following:

38 (a) Regularly engages, in whole or in part, in the practice of
39 assembling or preparing consumer reports for a monetary fee.

40 (b) Obtains information primarily from sources other than insurance
41 institutions.

42 (c) Furnishes consumer reports to other persons.

43 6. "Control", including the terms "controlled by" or "under common
44 control with", means the possession, direct or indirect, of the power to
45 direct or cause the direction of the management and policies of a person,

1 whether through the ownership of voting securities, by contract other than a
2 commercial contract for goods or nonmanagement services, or otherwise, unless
3 the power is the result of an official position with or corporate office held
4 by the person.

5 7. "Declination of insurance coverage" means a denial, in whole or in
6 part, by an insurance institution or insurance producer of requested
7 insurance coverage.

8 8. "Individual" means any natural person who:

9 (a) In the case of property or casualty insurance, is a past, present
10 or proposed named insured or certificate holder.

11 (b) In the case of life, health or disability insurance, is a past,
12 present or proposed principal insured or certificate holder.

13 (c) Is a past, present or proposed policyowner.

14 (d) Is a past or present applicant.

15 (e) Is a past or present claimant.

16 (f) Derived, derives or is proposed to derive insurance coverage under
17 an insurance policy or certificate subject to this chapter.

18 9. "Institutional source" means any person or governmental entity that
19 provides information about an individual to an insurance producer, insurance
20 institution or insurance support organization, other than an insurance
21 producer, the individual who is the subject of the information or a natural
22 person acting in a personal capacity rather than in a business or
23 professional capacity.

24 10. "Insurance institution" means any corporation, association,
25 partnership, reciprocal insurer, inter-insurer, Lloyd's association,
26 fraternal benefit society or other person engaged in the business of
27 insurance, including health care service organizations, and hospital,
28 medical, dental and optometric service corporations as defined in this title
29 AND FOREIGN INSURERS THAT ISSUE POLICIES IN THIS STATE PURSUANT TO SECTION
30 20-238. Insurance institution does not include insurance producers or
31 insurance support organizations.

32 11. "Insurance producer" means an insurance producer as defined in
33 section 20-281 or a managing general agent as defined in section 20-311.

34 12. "Insurance score" means, for the purpose of insurance underwriting
35 or rating, a designation that is derived by using a variety of data sources,
36 including an individual's consumer report in an algorithm, computer program,
37 model or other process that reduces the data to a number, alpha character or
38 rating that is used for insurance underwriting and rating decisions.

39 13. "Insurance support organization" means:

40 (a) Any person who regularly engages, in whole or in part, in the
41 practice of assembling or collecting information about natural persons for
42 the primary purpose of providing the information to an insurance institution
43 or insurance producer for insurance transactions, including the furnishing of
44 consumer reports or investigative consumer reports to an insurance
45 institution or insurance producer for use in connection with an insurance

1 transaction or the collection of personal information from insurance
2 institutions, insurance producers or other insurance support organizations
3 for the purpose of detecting or preventing fraud, material misrepresentation
4 or material nondisclosure in connection with insurance underwriting or
5 insurance claim activity.

6 (b) Notwithstanding subdivision (a) of this paragraph the following
7 persons are not considered insurance support organizations for purposes of
8 this chapter:

- 9 (i) Insurance producers.
- 10 (ii) Government institutions.
- 11 (iii) Insurance institutions.
- 12 (iv) Medical care institutions.
- 13 (v) Medical professionals.

14 14. "Insurance transaction" means any transaction that involves
15 insurance primarily for personal, family or household needs rather than
16 business or professional needs and that entails the determination of an
17 individual's eligibility for an insurance coverage, benefit or payment or the
18 servicing of an insurance application, policy, contract or certificate,
19 including transfers of business.

20 15. "Investigative consumer report" means a consumer report or portion
21 of a consumer report in which information about a natural person's character,
22 general reputation, personal characteristics or mode of living is obtained
23 through personal interviews with the person's neighbors, friends, associates,
24 acquaintances or others who may have knowledge concerning those items of
25 information.

26 16. "Medical care institution" means any facility or institution that
27 is licensed to provide health care services to natural persons including:

- 28 (a) Health care service organizations.
- 29 (b) Home health agencies.
- 30 (c) Hospitals.
- 31 (d) Medical clinics.
- 32 (e) Public health agencies.
- 33 (f) Rehabilitation agencies.
- 34 (g) Skilled nursing facilities.

35 17. "Medical professional" means any person licensed or certified to
36 provide health care services to natural persons, including a chiropractor,
37 clinical dietitian, clinical psychologist, dentist, nurse, occupational
38 therapist, optometrist, pharmacist, physical therapist, physician,
39 podiatrist, psychiatric social worker or speech therapist.

40 18. "Medical record information" means personal information that
41 relates to an individual's physical or mental condition, medical history or
42 medical treatment and that is obtained from a medical professional or medical
43 care institution, the individual or the individual's spouse, parent or legal
44 guardian.

1 19. "Personal information" means any individually identifiable
2 information gathered in connection with an insurance transaction and from
3 which judgments can be made about an individual's character, habits,
4 avocations, finances, occupation, general reputation, credit, health or any
5 other personal characteristics. Personal information includes an
6 individual's name and address and medical record information but does not
7 include privileged information.

8 20. "Policyholder" means any person who:

9 (a) In the case of individual property or casualty insurance, is a
10 present named insured.

11 (b) In the case of individual life, health or disability insurance, is
12 a present policyowner.

13 (c) In the case of group insurance which is individually underwritten,
14 is a present group certificate holder.

15 21. "Pretext interview" means an interview in which a person, in an
16 attempt to obtain information about a natural person, performs one or more of
17 the following acts:

18 (a) Pretends to be someone he or she is not.

19 (b) Pretends to represent a person he or she is not in fact
20 representing.

21 (c) Misrepresents the true purpose of the interview.

22 (d) Refuses to identify himself or herself on request.

23 22. "Privileged information" means any individually identifiable
24 information that relates to a claim for insurance benefits or a civil or
25 criminal proceeding involving an individual and that is collected in
26 connection with or in reasonable anticipation of a claim for insurance
27 benefits or a civil or criminal proceeding involving an individual, except
28 that information otherwise meeting the requirements of this paragraph is
29 considered personal information under this chapter if it is disclosed in
30 violation of section 20-2113.

31 23. "Residual market mechanism" means an agreement for the equitable
32 apportionment among insurers of insurance afforded applicants who are in good
33 faith entitled to but who are unable to procure insurance through ordinary
34 methods.

35 24. "Termination of insurance coverage" or "termination of an
36 insurance policy" means either a cancellation or nonrenewal of an insurance
37 policy, in whole or in part, for any reason other than the failure to pay a
38 premium as required by the policy.

39 25. "Transfer of business":

40 (a) Means the transfer by an insurance institution or insurance
41 producer that owns the policy expiration of a policyholder's existing policy
42 of insurance or the transfer of a group of policyholders' existing policies
43 of insurance to another insurance institution.

1 (b) Does not include the transfer of business by an insurance producer
2 that is under an exclusive contract or a contract requiring the insurance
3 producer to submit all eligible business to an insurer or group of insurers
4 under a common management.

5 26. "Unauthorized insurer" means an insurance institution that has not
6 been granted a certificate of authority by the director to transact insurance
7 in this state.

8 Sec. 6. Section 20-2531, Arizona Revised Statutes, is amended to read:
9 20-2531. Applicability; requirements

10 A. Notwithstanding article 1 of this chapter and subject to subsection
11 B of this section, this article applies to all utilization review decisions
12 made by utilization review agents and health care insurers operating in this
13 state.

14 B. Each utilization review agent and each health care insurer
15 operating in this state whose utilization review system includes the power to
16 affect the direct or indirect denial of requested medical or health care
17 services or claims for medical or health care services shall adopt written
18 utilization review standards and criteria and processes for the review,
19 reconsideration and appeal of denials that do all of the following:

- 20 1. Meet the requirements of this article.
- 21 2. Are consistent with chapter 1 of this title.
- 22 3. Comply with section 20-2505, paragraphs 2 through 6.

23 C. THIS ARTICLE APPLIES TO FOREIGN INSURERS THAT ISSUE POLICIES IN
24 THIS STATE PURSUANT TO SECTION 20-238.

25 ~~G.~~ D. This article does not apply to utilization review:

26 1. Performed under contract with the federal government for
27 utilization review of patients eligible for all services under title XVIII of
28 the social security act.

29 2. Performed by a self-insured or self-funded employee benefit plan or
30 a multiemployer employee benefit plan created in accordance with and pursuant
31 to 29 United States Code section 186(c) if the regulation of that plan is
32 preempted by section 514(b) of the employee retirement income security act of
33 1974 (29 United States Code section 1144(b)), but this article does apply to
34 a health care insurer that provides coverage for services as part of an
35 employee benefit plan.

36 3. Of work related injuries and illnesses covered under the workers'
37 compensation laws in title 23.

38 4. Performed under the terms of a policy that pays benefits based on
39 the health status of the insured and does not reimburse the cost of or
40 provide covered services.

41 5. Performed under the terms of a long-term care insurance policy as
42 defined in section 20-1691.

43 6. Performed under the terms of a medicare supplement policy as
44 defined by the department.

1 D. E. This article does not create any new private right or cause of
2 action for or on behalf of any member. This article provides only an
3 administrative process for a member to pursue an external independent review
4 of a denial for a covered service or claim for a covered service.

5 E. F. Utilization review activities involving retrospective claims
6 review shall be limited to the provisions of this article only as clearly and
7 specifically provided in the provisions of this article.

8 Sec. 7. Section 20-3101, Arizona Revised Statutes, is amended to read:
9 20-3101. Definitions

10 In this chapter, unless the context otherwise requires:

11 1. "Adjudicate" means an insurer's decision to deny or pay a claim, in
12 whole or in part, including the decision as to how much to pay.

13 2. "Clean claim" means a written or electronic claim for health care
14 services or benefits that may be processed without obtaining additional
15 information, including coordination of benefits information, from the health
16 care provider, the enrollee or a third party, except in cases of fraud.

17 3. "Enrollee" means an individual who is enrolled under a health care
18 insurer's policy, contract or evidence of coverage.

19 4. "Grievance" means any written complaint that is subject to
20 resolution through the insurer's system that is prescribed in section
21 20-3102, subsection F and submitted by a health care provider and received by
22 a health care insurer. Grievance does not include a complaint:

23 (a) By a noncontracted provider regarding an insurer's decision to
24 deny the noncontracted provider admission to the insurer's network.

25 (b) About an insurer's decision to terminate a health care provider
26 from the insurer's network.

27 (c) That is the subject of a health care appeal pursuant to chapter
28 15, article 2 of this title.

29 5. "Health care insurer" means a disability insurer, group disability
30 insurer, blanket disability insurer, health care services organization,
31 prepaid dental plan organization, hospital service corporation, medical
32 service corporation, dental service corporation, optometric service
33 corporation, or hospital, medical, dental and optometric service corporation,
34 AND INCLUDES A FOREIGN INSURER THAT ISSUES POLICIES IN THIS STATE PURSUANT TO
35 SECTION 20-238.

36 Sec. 8. Section 20-3151, Arizona Revised Statutes, is amended to read:
37 20-3151. Definitions

38 For the purposes of this ~~section~~ CHAPTER:

39 1. "Enrollee" means an individual who is enrolled in a health care
40 plan provided by a health care insurer.

41 2. "Health care insurer" means a disability insurer, group disability
42 insurer, blanket disability insurer, health care services organization,
43 hospital service corporation, medical service corporation, ~~or~~ hospital and
44 medical service corporation OR A FOREIGN INSURER THAT ISSUES POLICIES IN THIS
45 STATE PURSUANT TO SECTION 20-238.

1 3. "Health care plan" means a policy, contract or evidence of coverage
2 issued to an enrollee. Health care plan does not include limited benefit
3 coverage as defined in section 20-1137.

4 4. "Health care professional" means a professional who is regulated
5 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19,
6 19.1, 25, 28, 29, 33, 34, 35, 39 or 41, title 36, chapter 6, article 7 or
7 title 36, chapter 17.

8 Sec. 9. Severability

9 If a provision of this act or its application to any person or
10 circumstance is held invalid, the invalidity does not affect other provisions
11 or applications of the act that can be given effect without the invalid
12 provision or application, and to this end the provisions of this act are
13 severable.

Passed the House April 13, 2011,

by the following vote: 37 Ayes,

21 Nays, 2 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate March 8, 2011,

by the following vote: 20 Ayes,

10 Nays, 0 Not Voting

[Signature]
President of the Senate

Susan Acches
Assistant Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1593

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 14, 20 11

by the following vote: 21 Ayes,

8 Nays, 1 Not Voting

[Signature]
President of the Senate

Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

15 day of April, 20 11

at 8:30 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this _____ day of _____

at **VETO** o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20 _____

S.B. 1593

at _____ o'clock _____ M.

Secretary of State